Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Amendment of Part 97 of the Commission's Rules	)	**WT Docket No. 04-140**
Governing the Amateur Radio Services	)	
	)	

To: The Commission

Reply Comments of Stephen J. Melachrinos, W3HF

Stephen J. Melachrinos is a licensed Amateur Radio Operator, licensee of station W3HF. These reply comments are timely filed in the matter stated above, and respectfully submitted for Commission consideration.

In the matter of restricting multiple applications for vanity callsigns:

Summary:

1. I strongly support the comments of Messrs. Berglund (W6WJ) and Gibson (AE7Q), as well as those of the ARRL, with respect to the deficiencies in the NPRM.
2. I disagree with ARRL's suggestion for sanctions against those who would continue to file multiple applications.
3. I support the implementation suggestion offered by Mr. Berglund, providing an administrative solution that prevents multiple applications, rather than simply prohibiting them.

Discussion:

I strongly support the comments of Messrs. Berglund and Gibson, as well as those of the ARRL, with respect to the deficiencies in the NPRM's proposal regarding filing of multiple applications for vanity callsigns. Their analysis of the proposed rulemaking is correct. Whether or not multiple vanity applications is a serious problem is not the issue—the issue is that proposed solution has loopholes that would allow the continuation of the abuse of the system that the proposal is intended to remedy. If the Commission intends to prevent abuse of the system, the solution must be as "bullet-proof" as is possible.

As all respondents have pointed out, the correct solution is to limit applicants to one application per day. Mr. Gibson correctly points out that there are many implementations that satisfy that requirement, and leaves the flexibility of the implementation to the

Commission. Although this is true, I think it is instructive to consider the specific implementations, as an implementation itself may either create or prevent consequential problems.

ARRL suggests sanctions against those who might file multiple applications, specifically that all applications by a single applicant on the same day listing the same callsign be dismissed. I disagree with this suggestion on three grounds:

1. First of all, it dismisses ALL applications, not just the duplicative ones. Thus it prevents any properly-filed application from being considered if there are additional applications on the same day.
2. As a result, it penalizes completely (and without recourse) an applicant who follows a strategy that would have been, only recently, completely acceptable to the Commission.
3. Finally, the Commission already has, at its disposal, other options for addressing those who submit multiple, frivolous, or nuisance applications. It doesn't need to establish additional procedures or penalties.

Although the Commission will publicize the rules change, and other reputable sources (e.g., ARRL, www.vanityhq.com) will mirror those changes and offer their own commentaries, there will continue to be "old resources" (e.g., un-updated web sites, printed publications) that will describe the "old rules" without discussing the changes. And although applicants *should* be aware of the new rules, it seems draconian to dismiss all such applications, when in fact only the additional ones are in violation of the rule.

I would suggest that the implementation offered by Mr. Berglund (including the additions in his own comment to his original comment) is attractive as it addresses these same concerns but provides a creative solution. Mr. Berglund has offered an approach which can be implemented within the constructs of the current ULS and the Online Filing System. Furthermore, instead of simply *prohibiting* multiple applications, it *prevents* the submission of multiple applications. As a result, there is no need for the sanctions suggested by ARRL—those situations would never occur due to the administrative processes put in place by the Commission.

In the matter of allowing In Memoriam Designations of Callsigns:

Summary:

I strongly support the comments of the ARRL in that this change should not be made, and disagree with the arguments put forth by Mr. Johnston.

Discussion:

There is a fundamental difference between the "family rights" currently offered to close relatives of deceased licensees and the "testamentary" right that is postulated in the

NPRM. The current system allows close relatives to apply for the callsign of a decedent before that callsign is made available to the general amateur population. The process by which a club is allowed to apply prior to the two-year-wait is, in fact, that a family member "waives" his/her claim to the call, and passes that "right" to the club.

Under this system, the decedent has no say in which of his relatives receive the callsign—any or all can apply, in a "first-come, first-served" process. And a club can even receive the callsign of the decedent if it can obtain the consent of any close relative prior to the application of another relative.

The ARRL's argument regarding "property rights" and "chattel" is compelling. FCC licenses, and the callsigns by which those licenses are exercised, are not "owned" by the licensee, but are privileges granted by the government. Granting testamentary rights to a callsign violates this concept. Furthermore, the ARRL's comments regarding impacts on probate proceedings are important. And the opposite of that—the idea of a probate court interfering with or delaying Commission license proceedings—is a chilling thought.

Mr. Johnston offers that allowing the close relatives to "speak for the former licensee, *post mortem*" is unfair. This argument is flawed in that it misinterprets the intention of the Commission with respect to the current rule. The intent was not to allow anyone to "speak for" the decedent—it was to grant a privilege to the close relatives, and allow those relatives to waive that privilege.

In current practice, the close relatives are not obligated to "speak for" the decedent at all, and are required to provide no proof that they do. There is no assurance, either implied or stated, that their actions are consistent with the decedent's wishes. In fact, it is quite possible (and often undetectable) for the close relatives to violate the decedent's intent, either by withholding consent for a club to apply, or by granting consent to a club that the decedent did not approve. But in all of these cases, the close relatives are exercising <u>their</u> privileges, as defined by the Commission, in either retaining or releasing their own claims on the callsign. And this is entirely consistent with the intent of the Commission in this matter—it is a privilege granted to the survivors to apply for the callsign, not a right of the decedent to "will" it to someone.

Finally, allowing testamentary designations of callsigns would provide a vehicle for trafficking in those callsigns, which is a practice specifically prohibited by the Commission. It would be very difficult to verify that all testamentary designations were devoid of any pecuniary interest or compensation, as one of the parties is already, by definition, deceased.

Respectfully submitted,

/s/ Stephen J. Melachrinos
Stephen J. Melachrinos, W3HF
Collegeville, PA
29 June 2004